

Criminal Law and Procedure: Cases and Materials, Ninth Edition

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Preface to the Ninth Edition

Much has changed since the last edition of this casebook was published in 1997. Professor Martin L. Friedland has retired from teaching criminal law and procedure and from his editorship of these materials. The first five editions of this book were prepared by him alone and his exceptional contributions both to the teaching of criminal law and to Canadian criminal justice are still very much reflected in these pages.

A constant from the first edition published by Professor Friedland in 1968 to this edition is a common belief that students should be introduced to the criminal law in its procedural and evidentiary contexts. These materials have never been intended to supplant the need for separate courses on criminal procedure, evidence, and sentencing, but they are designed to provide students with a sense of the complexities and context of the criminal law. As before, instructors who wish to focus simply on the general part can do so by omitting the chapters on police powers, the trial process, and sentencing.

This casebook also reflects one of the most important themes of Professor Friedland's scholarship, namely, the recognition of what he describes in *The Trials of Israel Lipski* as "the inherent fallibility of the criminal trial process and the constant danger of error." From the very first edition of this casebook, Professor Friedland included a case study of a possible miscarriage of justice, the prosecution and conviction of Stephen Truscott. This edition continues this tradition with a case study of the wrongful conviction of Donald Marshall Jr.

Two new editors with decades of experience in both the academy and practice join this edition, Professor Patrick Healy of McGill and Professor Gary Trotter of Queen's. Both have collaborated before on teaching materials, in *Sentencing and Penal Policy in Canada* with Professor Allan Manson, published by Emond Montgomery in 2000.

There is some slight reorganization in this edition. The first two chapters deal with sources and limits of the criminal law, topics we believe will be of general interest. Subsequent chapters on police powers and the criminal trial process have been reduced in length and are, we believe, of interest not only to law students but other students of criminal justice. In recognition of the increasingly contextual nature of criminal law principles, we include separate chapters on homicide and sexual assault. As in previous editions, we include participation and inchoate offences at an early stage because of the importance of these extensions of criminal liability. Separate chapters are now included for each defence and the book concludes with a brief examination of sentencing.

This is an opportune time for a new edition of the casebook. The growing complexity of Canadian jurisprudence has allowed us to focus almost exclusively on Canadian case

law. Recent developments from the Supreme Court such as the decisions in *Malmo-Levine* on the limits of the criminal law, *Burns and Rafay* on miscarriages of justice, *Cinous* and *Fontaine* on air of reality tests, and *Latimer* and *Ruzic* on excuses have all been incorporated, as have Parliament's significant changes and codification of the principles that govern the criminal liability of organizations.

We are extremely grateful to Professor Friedland for his continued advice and for handing off this important project to us. We are also grateful to everyone at Emond Montgomery for their patience, professionalism, and good cheer in producing this book. Particular thanks are due to Peggy Buchan for her excellent coordination of the production of the book.

KR
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June 2004

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